

## **8 Official Opinions of the Compliance Board 135 (2013)**

### ◆ **Compliance Board – Authority and Procedures**

◇ *Jurisdictional Limits* – Open Meetings Act issues only

### ◆ **Quasi-Judicial Function**

◇ *Within the function:*

- property tax assessment appeals board's deliberations on cases subject to Administrative Procedures Act

\*Topic headings correspond to those in the Opinions Index (2010 edition) at  
<http://www.oag.state.md.us/opengov/openmeetings/appf.pdf>

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*February 1, 2013*

*Re: Kent County Property Tax Assessment Appeals Board  
(Craig O'Donnell, Complainant)*

We have considered the complaint of Craig O'Donnell ("Complainant") that the Kent County Property Tax Assessment Appeals Board ("PTAAB"), a public body created to hear taxpayers' appeals of the assessment of their properties for property tax purposes and other property valuation matters, violated the Open Meetings Act (the "Act"). Complainant alleges that the PTAAB failed to give adequate notice of its meetings as required by Act and by the State regulations applicable to PTAABS, excluded him from a gathering of a quorum of the members in the hallway outside a County hearing room on July 19, 2012, and failed to provide minutes of its meetings.

The PTAAB's response states that the PTAAB is indeed a "public body" subject to the Act, but that it meets only to conduct a "quasi-judicial" function, a function expressly excluded from the Act by § 10-503 of the State Government Article ("SG"). While PTAABs may also play a "limited consultative role" in some matters, *see 8 Opinions of the Attorney General* 153, 156 (2004), the counsel who responded on PTAAB's behalf has informed our staff that this PTAAB has not been asked to perform that role. He further ascertained that the PTAAB members were discussing the scheduling of cases when Complainant encountered them on July 19.

As we explain below, we find that the PTAAB did not violate the Act on July 19 and that it does not violate the Act when it meets only to perform a quasi-judicial function or administrative tasks associated with that function.

Under SG § 10-503(a)(1), the Act does not apply when a public body is meeting only to carry out a quasi-judicial or administrative function. As defined in SG § 10-502 (i), the quasi-judicial function includes a public body's discussion of a matter subject to SG Subtitle 2, which sets forth the contested case provisions of the Administrative Procedure Act. Subtitle 2 expressly applies to PTAABs. SG § 10-203 (b)(1). *See also Maryland-National Capital Park & Planning Com. v. Washington Nat'l Arena*, 282 Md. 588, 603 (1978) (“property tax assessment appeal boards perform a primarily adjudicatory and hence non-regulatory function. . . .”). The PTAAB’s meetings to perform its quasi-judicial function thus fall outside of the Act. Its discussion of scheduling matters, whether viewed as an incident of that function or an exercise of an administrative function, also fall outside of the Act; this is not a case in which the placement of an item on an agenda reflects a policy choice. *See, e.g., 7 OMCB Opinions* 148, 153 (2011)(finding that an instruction to an attorney to draft legislation was part of the legislative process).

We do not address Complainant’s allegation that the PTAAB violated a notice provision set forth in the Code of Maryland Regulations, an allegation that the PTAAB states it has since acted to address. Our authority only extends to violations of the Act. *See* SG § 10-502.4 (authorizing Compliance Board to resolve complaints “alleging a violation of the provisions of [the Act]”); *see also, e.g., 5 OMCB Opinions* 1 (2006) (noting the Compliance Board’s lack of authority to address alleged violations of a town’s charter).

In conclusion, so long as the members of this particular PTAAB meet only to perform a quasi-judicial or administrative function, their meetings are not subject to the Act. However, if the members’ discussion turns to public business that does not fall within either function, *see* SG § 10-503, the Act will apply.

*Open Meetings Compliance Board*

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